



**EX PARTE OR LATE FILED**  
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**Suzi Ray McClellan**  
Public Counsel

**RECEIVED**

December 21, 1998

DEC 22 1998

**FCC MAIL ROOM**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

**Re: CC Docket No. 98-170, In the Matter of Truth-in-Billing and Billing Format**

Please be advised that today, the Texas Office of Public Utility Counsel filed its Further Comments in the above styled proceeding. A copy of these comments are attached.

In accordance with the Commission's rules governing ex parte presentations, an original and one copy of this notification are provided herewith. Please call me directly should you have any questions.

Sincerely Yours,

A handwritten signature in cursive script that reads "Rick Guzman".

Rick Guzman  
Assistant Public Counsel

cc: Anita Cheng, Common Carrier Bureau  
Judy Boley, FCC  
Timothy Fain, OMB Desk Officer

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington D. C. 20544

DEC 22 1998

FCC MAIL ROOM

In the Matter of

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Truth-in-Billing

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CC Docket No. 98-170

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Billing Format

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FURTHER COMMENTS OF THE  
TEXAS OFFICE OF PUBLIC UTILITY COUNSEL

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**FURTHER COMMENTS OF THE  
TEXAS OFFICE OF PUBLIC UTILITY COUNSEL**

The Texas Office of the Public Utility Counsel (OPC) appreciates the opportunity to comment on the FCC's Notice of Proposed Rulemaking (NPR) regarding CC Docket No. 98-170 – In the Matter of Truth-in Billing and Billing Format. This initiative by the Federal Communications Commission (FCC) has the potential to greatly influence the effectiveness of telephone bills in controlling customer fraud, raising customer awareness, and improving the efficiency of deregulated telecommunications markets.

**I. Introduction**

In the course of comments submitted as part of this filing, parties made many interesting assertions. Texas OPC would like to take this opportunity to address some of these assertions. We hope the result of these comments will be that the Commission promptly adopts rules consistent with those long advocated by consumer groups in this proceeding.

Texas OPC advocates rules that provide customers with information, through their bills, that alerts them to changes in providers, new service charges, a concise description of charges, and their rights to challenge these charges. These rules help

provide consumers with the information needed to protect themselves from fraudulent business practices particularly slamming and cramming – practices that have risen dramatically since deregulation in the telephone industry<sup>1</sup>. Additionally, the type of information provided by the NOPR helps the market for telecommunications function closer to its optimal level. Conversely, to argue that competitive markets correct all problems on their own is inaccurate. Similarly, the notion that as competition increases regulation in every area of an industry should decrease is not good public policy. Finally, assertions that the FCC should only punish the guilty carriers after the fact (a worthy idea) does nothing to assist consumers in making optimal telecommunications purchases and helping them protect themselves proactively.

## **II. Consumer Information and its Relation to Market Performance**

In any given market, information that allows customers to make better decisions moves that market toward optimal performance. This is assumed in economic theory whereby consumers maximize their utility. Economic theory posits that consumers must have enough information to expend their disposable income on the various which are competing in the economy. If the purchase of one product has hidden costs, consumers will likely spend too much money on that product and not purchase the optimal mix of goods, which ultimately results in sub-optimal performance by the overall economy. Thus, economic theory strongly supports the assertion that telephone bills, which better describe the services and charges appearing on them, enable consumers to take better advantage of the new products and services available in the telecommunications

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<sup>1</sup> See Comment of the Federal Trade Commission In the Matter of Truth-in-Billing and Billing Format, November 13, 1998, p. 5.

marketplace.<sup>2</sup> Moreover, improved telephone bills will ensure that the corresponding markets function more efficiently.

Many Local Exchange Carriers (LECs) assert that the cost of implementing rules considered in this NOPR are too high.<sup>3</sup> OPC responds that without such rules the costs to consumers is unacceptably high and would prevent the optimal performance of the telecommunications market to the benefit of firms profiting from unscrupulous business practices. In fact, the costs of the under performance of the market and the added costs to customers swindled by unscrupulous businesses will likely exceed the costs of modifying bills by orders of magnitude.

### **III. The Argument that Competitive Markets are Self Correcting**

Many LECs assert that competition will on its own provide solutions to unfair trade practices.<sup>4</sup> This assertion fails to address two issues. First, if competition alone eliminates unscrupulous business practices, then mature competitive markets would be void of deceptive actions. OPC does not know of any such market, nor do the LECs cite a market that demonstrates such character. Second, the FCC, in its NOPR, correctly recognizes that the key to eliminating cramming and slamming is to empower consumers with the information to protect themselves against such spurious practices.<sup>5</sup> There is no guarantee that competition will empower consumers across the United States to catch cramming and slamming.

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<sup>2</sup> Id. at 3.

<sup>3</sup> See, e.g., Comments of Time Warner Telecom, Inc. In the Matter of Truth-in-Billing and Billing Format, November 13, 1998, p. i.

<sup>4</sup> See Comments of GTE in the Matter of Truth-in-Billing and Billing Format, November 13, 1998, pp. 8-9.

<sup>5</sup> NOPR pp. 2-3.

At present the telecommunications market could not be characterized as competitive. While some sectors are competitive, others must develop substantially to become competitive. Providing consumers with the information that allows them to make rational decisions is a prerequisite for making further advances toward competitive markets in telecommunications. Yet, LECs assert that in the course of developing competitive markets consumers will receive the information they need to act rationally through the media of unrealized, immature competition.

#### **IV. Argument that as Competition Increases Regulation Should Decrease**

LECs advanced the general concept that as competition increases the general level of regulation should decrease.<sup>6</sup> However, OPC would assert that while the general level of regulation decreases in many areas, increased regulation will be required in others. As long as there are profits to be had through deceptive trade practices and customers do not have the information to protect themselves, firms will form to exploit such situations to their advantage.

OPC asserts that customers will rarely chose a telecommunications provider based solely on their billing practices. Instead, customers will chose telecommunications providers based on product, price and service. Moreover, without a regulatory standard for billing a customer can become familiar with billing only after subscribing to a provider and receiving service for several months. Therefore, without standards that set a minimum level of quality, he or she may never have the ability to judge the value of the product before it is purchased. Furthermore, without some minimum standard the consumer may find it impossible to even determine if he or she is being cheated.

Standards, such as those proposed by consumer advocates in this NOPR would insure that without regard to location or provider consumers in the United States would have the ability to make rational valuations of the products they purchase and be able to protect themselves from fraud.

**V. Identifying carriers who are guilty of cramming and slamming and then stopping those practices**

In addition to providing customers with the ability to catch errors and deceptive acts through accurate, organized information on their bills, OPC urges the FCC to prosecute known companies that practice deceptive business activity. The solution to this problem creeping into the telecommunications market is a two pronged approach that involves both protecting customers from unscrupulous companies and punishing companies that exist only through deception.

**VI. Conclusion**

OPC appreciates the opportunity to offer these further comments and encourages the Commission to adopt rules consistent with them. OPC believes that the result of such action will be the empowerment of consumers with the necessary information to protect themselves and make reasoned purchase decisions. Equally significantly, the information made available through the rules will improve the efficiency of the telecommunications market.

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<sup>6</sup> See, e.g., Comments of SBC Communications, Inc. In the Matter of Truth-in-Billing and Billing Format, November 13, 1998, p. 2.